

Michael-Trent: Barnes, ex-rel.
RES: MICHAEL TRENT BARNES®
C/O: #95007-022 U.S.P.C.
P.O. Box 6000
Sheridan, Oregon [97378]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,]	U.S.D.C. No. 03-00502-SOM
Plaintiff,]	
]	
Vs.]	Challenge to the "In Personam"
]	Jurisdiction, by Defendant,
MICHAEL L. BARNES, in error,]	in fact, Common Law [C]itizen
Michael-Trent: Barnes, in fact,]	Michael-Trent: Barnes,
Defendant/[C]itizen]	

INDEPENDENT MOTION CHALLENGING
IN PERSONAM JURISDICTION
'A CONSTITUTIONAL REQUIREMENT'

TO ALL INTERESTED PARTIES:

BY THESE PRESENTS:

PLEASE TAKE NOTICE: That a Challenge to the "In Personam Jurisdiction, hearing has been commanded/requested to ascertain, place on record, the information which establishes the court's In Personam Jurisdiction, upon which the court proceeded in the above alledged criminal matter. This Challenge shall be held at the first available time, by the first available Article III Judge in the Court located at Honolulu, Hawaii [see file date by Clerk]. Said hearing shall be held in a timely manner in the interest of justice.

COMMAND FOR AN ARTICLE III JUDICIAL OFFICER

The Defendant, in fact, a [C]ommon Law California [C]itizen, Michael-Trent: Barnes, herein commands that only an Article III Judicial Officer hear this motion "Challenging In Personam Jurisdiction". An Article III Officer is defined as follows:

- a.] Judges of both the Supreme Court and Inferior Courts who receive for their services, which is not diminished during their continuance in office.
- b.] Judges of both the Supreme Court and Inferior Courts, holding office during good behavior.

[1.] This Challenge to In Personam Jurisdictional hearing has been requested/commanded to resolve certain assumptions/presumptions or conclusions of law, which are at controversy, and in dispute. This "DIRECT CHALLENGE" is called for by the effected Common Law California [C]itizen, Accused in fact, Michael-Trent: Barnes. The Court has errored in not proving "In Personam" Jurisdiction on the record, a Constitutional Requirement as; "Where a federal court is without jurisdiction of the offense, judgement of conviction of the court and or jury is void ab initio, on its face" Bauman v. U.S., 156 F.2d. 534 (5th Cir. 1946. Jurisdiction must be aquired by either the land being the property, owned by the federal government: "In criminal prosecutions, where the federal government is the moving party, it must not only establish ownership of the property upon which the crime was allegedly committed, but it must also produce documentation that the state has ceded to it jurisdiction over the property". Leavenworth Railway Co. v. Iowa, 114 U.S. 525 at 531 (1885); "Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor". No claim has been made that the alleged crime took place on federal lands! "There is no presumption in favor of jurisdiction, and the basis for jurisdiction must be affirmatively shown." Hanford v. Davis, 16 S.Ct. 1051, 163 U.S. 273, 41 L.Ed. 157 (1896). "In principle, the exclusive legislative jurisdiction of the federal government is not addressed to subject matter, but to geographical location". U.S. v. Bevans, 16 U.S. 3 Wheat, 336, (1818). It must be that they are claiming that I, or my family are 14th Amendment citizens of the "District of Columbia/freed slaves, Where is their proof?

[2.] The subject matter jurisdiction of the Court is not in question here. But rather, the In Personam jurisdiction is Challenged, the claim is that the case is a criminal matter. Involving a compelled performance. But in reality seems to be essentially derived from Roman Civil law (Administrative) law, not the common law. The error in naming the correct party as Defendant, is at issue, as if I am being considered a juristic person how do I claim my un-a-lienable Rights. The Accused herewith challenges the In personam Jurisdiction in this matter and of the court. The Accused does so on the grounds that the Plaintiff has failed to provide an offer of proof that the Accused is subject to the legislative equity jurisdiction in which this Court

intends/did sit to hear and determine only the facts of this matter, and not the Law, arising from a "Bill of Pains and Penalties".

[3.] It is well known that jurisdiction may be challenged at any time as an issue of law because, absent jurisdiction, all acts undertaken under the color of statute or under the color of ordinance are null and void ab initio (from their inception).

[4.] Because the Accused was compelled, by fraud and under threat of further damage and injury, to enter this Court to command relief, this appearance is SPECIAL, and not general in nature.

[5.] The argument, which follows, sets forth the nature of the controversy "At Law". This Court is bound by its Oath of Office to sit on the Law side of its jurisdiction to hear the controversy in a neutral capacity and make a fair and impartial determination.

[6.] This document, and the argument contained herein, is intended to be the basis for further action on appeal, should this Court fail to afford a complete hearing on the Law of the matter at the notice request of the Accused. Furthermore, a failure of this Court to seat on the Law side of its jurisdiction to determine this timely question will give the Accused cause to file for a Writ of Prohibition in a higher Court.

ARGUMENT

[7.] The Constitution for the [u]nited States of America (1787) is the supreme Law of the Land. The Constitution of the State of California must be construed in harmony with the Supreme Law of the Land; otherwise, the State of California has violated its solemn contract with the Supreme Law of the Land and the Union of States known as the [u]nited States of America, and the question raised herein becomes one which is a proper original action before the Supreme Court of the United State, sitting in an Article III capacity.

[8.] An employee of the United States has submitted allegations in what amounts to a "Bill of Pains and Penalties" alleging that I, Michael-

Trent: Barnes, have somehow failed to perform according to terms of some agreement for specific performance on my part.

[9.] By submitting this Bill of Pains and Penalties, the individual in question has accused Michael-Trent: Barnes of failing to perform specifically to some legislative statute, (code), which is being presented as evidence of the Law. Statutes (codes) are not Laws; they are administrative regulations that are civil in nature, even when they carry sanctions of a criminal nature, unless there is an injured party who is brought forward as a corpus delicti.

[10.] Thus, because of this unsupported conclusion of Law, and because the United States has administratively decided that the Accused Common Law [C]itizen, is somehow subject to statutes in question, the Accused Citizen holds that a contrary conclusion of Law exists to challenge the Jurisdiction of this Court. Therefore, this Court shall now sit in a neutral position, on the Law side of its jurisdiction, to hear and resolve the question of the controversial positions of Law as they affect its jurisdiction or lack of jurisdiction 'In Personam'.

[11.] This argument is intended to serve as both a defense "At Law" in this Court, and as the basis of future actions, should it become necessary to appeal the question presented to a higher Article III judicial authority.

[12.] If the Accused Citizen is correct and if this Court is sitting to hear the violation of a regulatory statute, then it is possible that the judges of this Court, in hearing this matter, are acting in an administrative capacity rather than a judicial capacity. This issue is discussed in detail in the argument that follows.

[13.] This Court is placed on NOTICE that, if it fails to sit and hear this issue "At Law" upon a timely request, then you may have violated your Oath of Office to uphold and defend the Constitution for the [u]nited States of America (1787) and the California Republic (1849). Such an act will serve to place you and the other parties to this action outside the realm of judicial immunity, subject your Bond(s) to attack and subject to further action by me the Accused California Citizen. The Prosecutor in this action is specifically placed on NOTICE that she carries

no shirttail immunity should she continue to prosecute, in the absence of a determination "At Law" of the question of 'In Personam jurisdiction' presented herein

JURISDICTION

[14.] In 1849, California became one of the several States in the Union of States known as the [u]nited States of America. California is a "Common Law" State, meaning that the Common Law, as derived from the Common Law of England, is recognized form of Law in the State of California.

[15.] Article III of the Constitution for the [u]nited States of America gives "judicial" power to the various courts, among them the District Courts. What is not generally recognized is that the District Courts may seat in different jurisdictions. Judges may wear different hats, so to speak, depending on the nature of the case brought before them.

[16.] This Court may sit "At Law" to hear crimes and civil complaints involving a damage or injury which is unlawful under Common Law of a State; or it may seat in equity to determine specific performance to a contract in equity. Alternatively, as a creation of the foreign Corporate State, this Court may seat administatively in a fiction, which may be termed "legislative equity", under authority to regulate activities not of common right, such as commerce for profit and gain, or other privileged activities.

[17.] Both civil and criminal matters "At Law" require that the complaining party be a victim of some recognizable damage. The "Law" can not recognize a "crime" unless there is a victim who properly claims to have been damaged or injured.

[18.] Regulatory statutes, on the other hand, are enacted under the police power of the State and Federal Governments to regulate activities not of common right. All statute Law is inferior to, and bound by, the restrictions of the Constitution. These "regulatory" statutes operate as "Law" on the subjects of those statutes, and violations may carry sanctions of a criminal nature, even in the absence of a victim or injury.

[19.] A self-evident truth which distinguishes "crimes" under the Law, from "offenses of a criminal nature" under the regulatory statutes, is the difference between Rights afforded to a defendant in a criminal proceeding, and "rights" available to a defendant under "due process" in a statutory proceeding.

[20.] In the case of true crimes "At Law", the Common Law Citizen Michael-Trent: Barnes, enjoys all his fundamental Rights as guaranteed by the State and Federal (National) Constitutions, including both "substantive" and "procedural" due process. In contrast, when regulatory offenses "of a criminal nature" are involved, the statutory defendant cannot demand or command Constitutional Rights, since only certain "civil rights" have been granted these actions, and only "procedural due process", consisting of the right to be heard on the facts alone, is all-owed. Constitutional Rights and substantive due process are noticeably absent. Therefore, the Court must be seated in some other jurisdiction other than "At Law", in order to hear an alleged violation of a regulatory statute.

[21.] In the case of the Accused Common Law Citizen Michael-Trent: Barnes, hereby places all parties and the Court on NOTICE, that he is not a "[c]itizen of the United States" under the so called 14th Amendment, e.g., a juristic person or a franchised person who can be compelled to perform under the regulatory United States Code, which is civil in nature. Moreover, the Accused Common Law Citizen Michael-Trent: Barnes hereby challenges the In Personam jurisdiction of this Court with this contrary conclusion of Law. This Court is now mandated to seat on the Law side of its capacity to hear evidence of the status of the Accused Citizen.

[22.] The Accused Common Law Citizen Michael-Trent: Barnes contends that the agent for the "United States" made a false conclusion of Law in an administrative capacity when it first brought this action before the Court, and in so doing failed to impart jurisdiction upon this Court to seat and hear this matter in a jurisdiction of legislative equity.

[23.] The Accused Common Law Citizen Michael-Trent: Barnes, now commands and demands that the attorney for the Plaintiff in this matter step foreward with an "offer of proof" that the Accused Common Law Citizen

Michael-Trent: Barnes, has lost his status as a Common Law [C]itizen of the California Republic, and is now a "res-ident" of this State who can be compelled to preform to the letter of every civil statute because he is either an immigrant alien, a statutory res-ident (14th Amendment [c]itizen), a juristic person (CORPORATION), or an enfranchised person (e.g., one who knowingly, with full disclosure, willingly and voluntarily entered into an agreement for the exercise of a privilege or the receipt of a benefit and for the attendant considerations carried with the grant of that supposed privilege or benefit).

[24.] Once jurisdiction is challenged, this Court must/shall sit on the Law side as a neutral arbitrator, before the allegations of statutory wrongdoing can proceed. Failure to do so may subject the judge of this Court to charges of perjury for violating the Oath of Office by refusing to uphold and protect the rights guaranteed and protected by the Constitutions of the California Republic and for the [u]nited States of America.

[25.] The Accused Common Law Citizen Michael-Trent: Barnes commands/requests that this Court take judicial notice that he has been compelled to enter this Court to answer the allegation, through force and fraud even under a fictitious identity, and contends that the allegations are founded upon false conclusions of Law. THE MEMORANDUM OF LAW WHICH FOLLOWS will set forth the position of the Accused Common Law Citizen Michael-Trent: Barnes and the record will show that no evidence is before this Court, which contradicts the position of Citizen Michael-Trent: Barnes, execpt a mere fiction of Law. This fiction of Law can not stand in the face of a CLEAR AND DIRECT CHALLENGE.

MEMORANDUM OF LAW IN SUPPORT OF THIS INDEPENDENT MOTION
IS DIRECTLY ATTACHED
ITEMS ONE(1) THRU SIXTY-TWO(62)

***** NOTICE OF DIRECT APPEAL *****
CERTIFICATE OF APPEAL ABIITY 28 U.S.C.§2253

[26.] NOTICE: If this Challenge is denied, This is a NOTICE of Direct Appeal to the Ninth Circuit Court of Appeals, the record shall be transferred forthwith with the District Courts Order to said Court of Appeals,

Page 7 of 8 section 1 Page 7 of 30 Total

Certificate of Appeal ability (28 U.S.C. §2253) is Directly attached to this independent motion and docketed as timely, due to denial of Constitutional Rights, and FRAUD.

[27.] Defendant/Citizen is currently a pauper (sic) under force, threat, deceit coercion, extortion, Dolus malus and Dolus dans locum contractui, so requests that this District Court waive Appeal Filing fees, or any other fees, defendant has been granted informa pauperis in this Court prior.

Dated: January 10th 2007. Respectfully Submitted with explicit reservation of all my un-a-lien-able Rights, Citizen of the California Republic. In Propia Persona, Sui Juris, "Without Prejudice"

/s/ Michael-Trent: Barnes

Michael-Trent: Barnes

Common Law[C]itizen